

Proposed Local Law Number 1 Of 2021

County Of Ulster

A Local Law Amending Various Provisions Of Local Law No. 1 Of 2020, A Local Law Amending The Code Of The County Of Ulster To Include Mandatory Food Scraps Composting By Large Generators

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. Subsection F of Section 304-46 of the Code of the County of Ulster shall be amended to read as follows:

F. This article, commencing January 1, 2021, requires large food waste generators to separate such waste from the general waste stream and then either arrange for its reuse by the food insecure or for animal feed, to it on site, or to arrange for licensed services for the purpose of delivering it to a processing facility for composting or anaerobic digestion. This article will remove food waste generated on an annual basis from the waste stream incrementally from generators producing two tons per week to 0.5 ton per week by **January 1, 2024** ~~July 1, 2023~~.

SECTION 2. Section 304-50 of the Code of the County of Ulster shall be amended to read as follows:

Section 304-50. APPLICABILITY.

Large food scraps generators shall be subject to the requirements of Section 304-51 as of the following dates:

- A. Beginning January 1, 2021, a large food generator whose acts or processes produce more than 2 tons per week of food scraps;
- B. Beginning ~~July~~ **January** 1, 2021~~2~~, a large food scraps generator whose acts or processes produce more than 1 ton per week of food scraps;
- C. Beginning ~~July~~ **January** 1, 2022~~3~~, a large food scraps generator whose acts or processes produce more than .75 ton per week of food scraps; and
- D. Beginning ~~July~~ **January** 1, 2023~~4~~, a large food scraps generator whose acts or processes produce more than .5 ton per week of food scraps.

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SECTION 3. Section 304-51 of the Code of the County of Ulster shall be amended to read as follows:

Section 304-51. REQUIREMENTS FOR LARGE FOOD SCRAPS GENERATORS.

A. A large food scraps generator shall separate excess edible food for donation for human consumption to the maximum extent practicable, and in accordance with applicable laws, rules and regulations related to food donation.

B. A large food scraps generator shall manage food scraps that cannot be donated for human consumption as follows:

- (1) separate its remaining food scraps from other solid waste;
- (2) ensure proper storage for food scraps on site which shall preclude such materials from becoming odorous or attracting vectors, such as a container that has a lid and a latch that keeps the lid closed and is resistant to tampering by rodents or other wildlife and has sufficient capacity;
- (3) have information available and provide training for employees concerning the proper methods to separate and store food scraps;
- (4) divert food scraps for consumption by animals, to the maximum extent practicable; and
- (5) for food scraps that cannot be used as animal feed, either
 - (a) obtain a transporter that will deliver food scraps to an organics recycler,
 - (b) self-haul its food scraps to an organics recycler, or
 - (c) provide for organics recycling on-site via in vessel composting, aerobic or anaerobic digestion or any other method of processing organic waste approved by the New York State Department of Environmental Conservation, for some or all of the food waste it generates on its premises, provided that the remainder is delivered to an organics recycler.

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C. If transported, food scraps must be sent to a New York State permitted or registered organics recycler. If the food scraps are transported to an organics recycler outside Ulster County, the large food scraps generator shall inform Ulster County of the destination.

D. Beginning on January 1, 2022, the requirements of paragraph B of this section shall not apply to any designated food scraps generator regulated under section 27- 2203 of the Environmental Conservation Law. It shall apply to persons, businesses, institutions and entities not subject to regulation under section 27-2203 of the Environmental Conservation Law.

E. Large food scraps generators shall report the amount of food waste they cause to be reused, composted or otherwise beneficially repurposed under this section, and other relevant information specified by Ulster County, on an annual basis, by February 1 of the following year, to Ulster County and the Agency in a form prescribed by the County.

F. Waivers.

- (1) ~~Ulster County may waive the requirements of paragraph B with respect to post-consumer food scraps if the County determines that a facility is not reasonably able to separate post-consumer food scraps without contamination, or that compliance with the requirements of paragraph B would result in extraordinary financial hardship to the large food scraps generator; or~~ **that** other unique circumstances **justify a waiver.**
- (2) **A large food scrap generator must demonstrate both of the following to qualify for a “financial hardship” exemption:**
 - (a) **a gross income under \$300,000 on their annual income tax filing for the most recent tax year, and**
 - (b) **the total cost of solid waste management including organics recycling is at least 10 percent greater than the total cost of disposal without organics recycling.**

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- (3) Ulster County may grant a limited waiver of the requirements of paragraph B with respect to food scraps if the County determines that a facility is not reasonably able to separate food scraps without contamination.**
- (4) Any waiver granted hereunder shall be for a maximum period of one year and shall include a requirement that the large food scraps generator participate in an education program designed to achieve compliance with this section.**
- (5) Waivers under this paragraph subsection F shall not be available to any designated food scraps generator regulated under section 27-2203 of the Environmental Conservation Law.**

SECTION 4. Section 304-54 of the Code of the County of Ulster shall be amended to read as follows:

Section 304-54. IMPLEMENTATION AND ENFORCEMENT.

Ulster County, through a department or department(s) designated by the County Executive, or the Agency pursuant to an agreement with the County shall be responsible for the ~~The County Executive shall designate a County department or departments to have responsibility for~~ implementation and enforcement of the requirements of this article. The Director of **the Agency or the head of the County department(s) designated by the County Executive pursuant to this section** ~~department(s)~~ is authorized to promulgate rules and regulations and to take any other action reasonable and necessary to implement and enforce this article, including, but not limited to, investigating violations, issuing fines and entering the premises of any large waste food generator during business hours. A copy of the rules and regulations will be provided to the Clerk of the Legislature before they are publicly disseminated.

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SECTION 5. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 6. EFFECTIVE DATE.

This law shall be effective upon filing in the Office of the Secretary of State.